



August 19, 1999

Mr. Brendan Hall
City Attorney
City of Harlingen
P.O. Box 2207
Harlingen, Texas 78551-2207

OR99-2345

Dear Mr. Hall:

You have asked whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 127103.

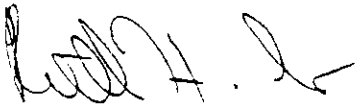
The City of Harlingen (the "city") received a request for certain information. You assert that records responsive to the request are protected from disclosure under sections 552.101, 552.103, 552.107, and 552.111 of the Government Code. However, you did not comply with the requirements of chapter 552 in seeking a ruling from this office.

Section 552.301(a) provides that a governmental body which receives a written request for information that the governmental body believes should be protected from disclosure under an exception outlined in chapter 552, must seek a decision from this office. Section 552.301(b) provides that when the governmental body requests a decision from this office, the governmental body must provide to this office (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, and (3) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Because you did not submit to this office a copy of the written request for information, this office notified you by facsimile on July 23, 1999, that you had failed to submit records as required by section 552.301(b). We requested that you provide, within seven days of receipt of the notice, a copy of the written request for information. Gov't Code § 552.303(c). The notice further stated that, under section 552.303(e), failure to supply this information would result in the legal presumption that the records at issue are presumed public.

You did not provide our office with the information that was requested. Thus, the records are presumed to be public under section 552.303(e). We note that, generally, information which is presumed public must be released unless the governmental body demonstrates a compelling interest in withholding the information, such as showing that the records are confidential by statute or that they implicate a third party's privacy interests. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). As you have not provided compelling reasons as to why this information should be withheld, it must be released.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 127103

Encl. Submitted documents

cc: Mr. Roy S. Dale
Dale & Klein, L.L.P.
6301 North 10th Street
McAllen, Texas 78504